HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WPSS No. 2261/2001
(Old No. 14818/1999)

Jagdish S/o Shri Parmeshwar
& others
Vs
The State of U.P.
& others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 28.3.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 2261 (SS) OF 2001

(Old No. 14818/1999)

Jagdish S/o Shri Parmeshwar Prasad, R/o Village & Tehsil Purola, District Uttar Kashi. .....Petitioner.

Versus

1. The State of U.P. through its Secretary Public Works Department Government of U.P.
2. Chief Engineer, Public Works Department District Uttar Kashi.
3. Superintending Engineer 13, Circle Public Works Department, Purola, District Uttar Kashi.
4. Executive Engineer Construction Division, Public Works Department, Purola, Uttar Kashi. .....Respondents.

Mr. P.C. Jhingan, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 28.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent to consider the regularization of the petitioner.

Briefly stated, the petitioner was appointed as a daily wager Beldar Class IV employee at the rate of Rs. 68/- per day w.e.f. 1973 under the respondents and has been continuously as a daily rated employee and his services are without any break since his initial appointment in the Public Works Department Purola, District Uttar Kashi.

Petitioner has referred a judgment of Dharwad District P.W.D. Daily Wages Employee Association and Other Vs. State of Karnataka and others reported in 1990 U.P.L.E.B.C.

Page 2151 in paragraph 6 of the writ petition. The same is quoted below:-

"We have heard learned counsel for vbot the partie sonly on one of the question involved in this case viz. whether the onthly rated Gangment who are referred to in para 1 of the G.O. No. P.W.D.-10-P.W.O. 0-93 Bangalore, dated January 12, 1984 and the monthly rated sewdies referred to in the G.O. No. P.W.D./20-PWO-84 dated, December 14, 1984 shuld be paid the same salary8 as the salary paid to Gangmen and sewdies respectively who are employed regularly by the State Govt. as we are of the view that the principle annunciated by this Court in paragraph 8 of the judgment of this Court in daily rated casual labour employed in P & T Department through Bhartiya Dak Tar Mazdoor Manch Vs. Union of India, 1988 (1) SCC 122, 1988 SCC (L & S) 128, 1987 (5) ATC 28, is applicable to this case also. We direct the Government of Karnataka to pay salary to such workmen at the rate equivalent to the minimum pay in the pay scale of regularly employed Gangment or sewdies at the case may be but without any increment with effect from July, 1988, will be considered along with other questions involved in this case a the final hearing. This case shall stand adjourned by 3 months. In the mean while we direct the State Government to furnish a mere rational scheme for absorbing as many casual workers and monthly rated gangmen and sewdies as possible, in regular cadres. The case need to be treated as part heard."

In Paragraphs 9 and 10 he has referred the judgment of Division Bench in the case of ***Surinder Singh Vs. Engineer in-Chief, C.P.W.D. 1986 SCC (L & S)***. He has also referred the Uttar Pradesh Regularisation of Daily Wages

Appointments on Group 'D' Posts Rules, where the cut of date has been shown as 29th June, 1991. Rule 4 is quoted below:-

"4. Regularisation of daily wages appointments on Group 'D' Posts.- 91) Any person who—

(a) was directly appointed on daily wage basis on a Group 'D' post in the Government service before June 29, 1991 and is continuing in Service as such on the date of commencement of these rules; and

(b) possessed requisite qualification prescribed for regular appointment for that post at the time of such appointment on daily wage basis under the relevant service rules, shall be considered for regular appointment in permanent or temporary vacancy, as may be available in Group 'D' post, on the date of commencement of these rules on the basis of these rules on the basis of his record and suitability before an regular appointment is made in such vacancy in accordance with then relevant service rules or orders."

In view of the aforesaid rules as well as the judgment of the Division Bench, the respondents are directed to pass appropriate orders considering the claim of the petitioner within a period of four months form the date of presentation of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

28.03.2006
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